

## SURREY COUNTY COUNCIL

## CABINET

DATE: 31 MAY 2022



REPORT OF CABINET MEMBER: MATT FURNISS, CABINET MEMBER FOR TRANSPORT AND INFRASTRUCTURE

LEAD OFFICER: KATIE STEWART, EXECUTIVE DIRECTOR FOR ENVIRONMENT, TRANSPORT &amp; INFRASTRUCTURE

SUBJECT: MINERALS AND WASTE DEVELOPMENT SCHEME

ORGANISATION STRATEGY PRIORITY AREA: GROWING A SUSTAINABLE ECONOMY SO EVERYONE CAN BENEFIT / ENABLING A GREENER FUTURE

<b>Purpose of the Report:</b>
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The purpose of this report is to seek agreement of Cabinet to an extension to the timetable in which the Minerals and Waste Local Plan (MWLP) is to be prepared. The extension proposed will necessarily involve material amendments to the Minerals and Waste Development Scheme (MWDS) previously approved in July 2021.

The principal amendments proposed would result in a delay in the adoption of the Minerals and Waste Local Plan (MWLP) by no more than twelve months. The timetable extension is necessary in the context of the complexity and range of technical assessments required to prepare the draft MWLP and Preferred Options (Draft Plan) public consultation particularly in respect of minerals and waste site identification and extensive and meaningful stakeholder engagement before and during the Preferred Options (Draft Plan) public consultation period. There is also a general need for timetable-flexibility in the context of any changes to National planning policy and/or guidance; new regulations made pursuant to the Environment Act 2021; and the forthcoming Levelling Up Bill, and outcome of Natural England's review of the Surrey Hills Area of Outstanding Natural Beauty (AONB) boundary.

Considered preparation of the MWLP based on a robust evidence base and extensive and proper stakeholder engagement will empower communities and result in a sound local development plan document which will guide future decisions about minerals and waste management development in the county. This will in turn provide long-term certainty to developers and communities; development that helps Surrey mitigate and adapt to climate change enabling a greener future; development that contributes to a growing and sustainable economy so that everyone can benefit; and a steady and adequate supply of minerals and sufficient facilities to manage Surrey's waste over the relevant plan-period.

<b>Recommendations:</b>
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It is recommended that Cabinet:

1. Approves the amended Minerals and Waste Development Scheme dated May 2022 which includes an extended timetable for the preparation of the Minerals and Waste Local Plan, as set out in **Annex 1**.

2. Delegates authority to the Executive Director of Environment, Transport & Infrastructure in consultation with the Cabinet Member for Transport & Infrastructure to make any further revisions to the scheme or timetable.

#### **Reason for Recommendations:**

Surrey County Council, as the County Planning Authority, is required by law to prepare and maintain an up-to-date Minerals and Waste Development Scheme. Officers propose to update the Minerals and Waste Development Scheme to extend the timetable in which the Minerals and Waste Local Plan is to be prepared. This extension of time is necessary to accommodate the complexity and range of technical work necessary to prepare a sound local development plan; extensive and meaningful engagement with stakeholders; and anticipated changes to Government policy, guidance, legislation, and regulations and the Surrey Hills Area of Outstanding Natural Beauty boundary during the plan-preparation period.

#### **Executive Summary:**

##### **Context**

1. Surrey County Council (SCC) is the County Planning Authority (CPA) for minerals and waste management development.
2. The Planning and Compulsory Purchase Act 2004 as amended by the Localism Act 2011 requires the CPA to prepare and maintain a Minerals and Waste Development Scheme (MWDS). The MWDS identifies what planning policy documents SCC has adopted and sets out when these documents will be reviewed to keep them up-to-date and consistent with the law and National planning policy.
3. At present this minerals and waste policy framework includes the Surrey Waste Local Plan 2020; Surrey Minerals Plan Core Strategy 2011; Surrey Primary Aggregates Development Plan Document (DPD) 2011; Surrey Minerals Site Restoration Supplementary Planning Document 2011; and Surrey Aggregates Recycling Joint DPD 2013.
4. Planning applications for minerals and waste management development must be determined by SCC in accordance with these policy documents and any other material planning considerations e.g., the National Planning Policy Framework 2021 (NPPF). Surrey's 11 district and borough councils must also have regard to these documents in making their local development plans and planning decisions.

##### **Minerals and Waste Local Plan**

5. In November 2020 Cabinet resolved to begin the preparation of the county's first joint Minerals and Waste Local Plan (MWLP) to update SCC's existing minerals and waste policy framework relevant to legislative and policy developments (such as Surrey's Climate Change Strategy 2020 and biodiversity net-gain obligations pursuant to the Environment Act 2021) and address, amongst other matters, the growing overlap between minerals and waste management development particularly the positive role recycling can play in conserving and keeping primary materials (minerals) in use for as long as possible to prevent waste.
6. Accordingly, in November 2021 the CPA commenced the first formal stage of this plan-preparation process which comprised a 16-week Issues and Options public consultation. The purpose of consultation exercise was to formally notify over 650 stakeholders of SCC's intention to prepare the MWLP and find out what is important

to them (and other stakeholders) about minerals and waste management development. The consultation also included a 'call for sites' exercise inviting landowners to nominate land in the county that may be suitable for future minerals or waste management development.

7. The Issues and Options public consultation was widely advertised in several ways and stakeholders were offered the opportunity to engage with the public consultation through traditional and digital channels. Although necessarily technical, broad, and strategic in nature the consultation material was designed to be accessible to a range of stakeholders with varying degrees of interest, knowledge, abilities, and resources. Between November 2021 and March 2022, the Issues and Options public consultation attracted:
  - Just over 150 written representations (emails and letters).
  - 21 Site nominations made pursuant to the call for sites exercise.
  - Over 2,350 visitors to the relevant digital consultation platform with 205 contributions to proposed policy options/approaches and 208 subscriptions to relevant plan-making updates.
  - Over 334,000 targeted and organic social media impressions with 582 clicks.
  - Over 230 YouTube video views.
8. Stakeholder feedback arising from the Issues and Options public consultation has been supplemented by other engagement work carried out by officers during the relevant consultation period including qualitative research undertaken by way of two deliberative focus group workshops with 53 residents; and feedback from several advertised drop-in events held at public libraries about the Issues and Options public consultation and minerals and waste management development in Surrey.
9. The next formal stage in preparing the MWLP will be the Preferred Options (Draft Plan) public consultation. This will involve the CPA seeking the views of stakeholders about the preferred vision, strategic objectives, spatial strategy, and planning policies to address the CPA's statutory plan-making obligations and a range of issues relevant to minerals and waste management development. These aspects of the draft MWLP will be considered and drafted by the CPA having regard to, amongst other matters, stakeholder feedback relating to the Issues and Options public consultation and Government guidance and policy relating to plan-making and land-use planning.
10. To ensure that the MWLP provides for a steady and adequate supply minerals and sufficient facilities to manage Surrey's waste over the relevant 15-year plan-period, the Preferred Options (Draft Plan) public consultation will also necessarily propose a range of sites or areas of land to be allocated or otherwise safeguarded for future minerals and waste management development in the county. To this end the CPA will need to assess and evaluate a range of sites/land at varying levels to identify associated preferred options. Stakeholders will also be invited to provide feedback and representations about these proposed sites or areas of land during the public consultation period.
11. The Preferred Options (Draft Plan) public consultation will be underpinned by a Strategic Environmental Assessment and Sustainability Appraisal which will also take account of any relevant material feedback received during the Issues and Options public consultation. Additionally, the draft MWLP will need to be supported by a Strategic Flood Risk Assessment relating to any proposed mineral and waste sites identified as being suitable for future development, and an Equalities Impact Assessment.

## Timetable Flexibility

12. There is a need for timetable-flexibility in the context of anticipated changes to National planning policy and/or guidance; new regulations made pursuant to the Environment Act 2021; and the forthcoming Levelling Up Bill, and the outcome of Natural England's review of the Surrey Hills AONB boundary.
13. The long-awaited Planning for the Future white paper was launched by the Government on 6 August 2020 and proposed major reforms to England's planning system including the introduction of a zonal planning; reforms to public consultation; digitisation of the planning system; and new infrastructure levy to replace Section 106 contributions. These reforms were expected for 2021 but have been put on hold and are being reviewed by the new Secretary of State for Levelling Up, Housing and Communities. Updates to this process and the Government's intentions are expected in 2022 and may include amendments to the NPPF 2021 and/or the National Planning Practice Guidance which could have a material impact on how SCC plans for future minerals and waste management.
14. In November 2021 the Environment Act received royal assent. This piece of legislation sets new statutory targets for the recovery of the natural environment in four priority areas: air quality, biodiversity, water and waste, and to reverse the decline in species abundance by the end of 2030. It also sets in law new tools that the CPA can use to help meet those targets including the application of the Biodiversity Net Gain (BNG) principle to mineral and waste management development. In this regard, BNG regulations are expected in 2023 at which time BNG will become mandatory for all minerals and waste management development. These forthcoming regulations are likely to have a material impact on how SCC plans for future minerals and waste management.
15. The Levelling Up white paper was published by the Government in February 2021 and includes provisions for encouraging the use of brownfield land for development; simplification of local plans; more support for employment land; engagement with infrastructure providers in plan-making; supporting environmental protection; promoting beauty and good design; and the introduction of an Office for Place. The Government is likely to introduce legislation in 2022/2023 to put into statute some aspects of the levelling up agenda which may in turn have a material impact on how SCC plans for future minerals and waste management.
16. In June 2021 Natural England commenced review of the Surrey Hills AONB boundary in accordance with the Government's commitment to designating additional protected landscapes in England. It is likely that this review will result in additional areas of land, particularly those locally designated as Areas of Great Landscape Value, being included within the AONB designation. The outcome of this review is expected in July 2023 and any extension to the existing AONB boundary is likely to have a material impact on how SCC plans for future minerals and waste management particularly in respect of the north-east and south-west of the county.

## Minerals and Waste Development Scheme

17. The existing MWDS dated June 2021 sets out the following timetable for preparation of the MWLP:
  - Issues and Options public consultation in October 2021.
  - Preferred Options (Draft Plan) public consultation in June 2022.

- Pre-Submission Plan public consultation in early 2023.
  - Submission of Minerals and Waste Local Plan to Secretary of State in mid-2023.
  - Examination in Public of Minerals and Waste Local Plan in mid-to-late 2023.
  - Adoption of the Minerals and Waste Local Plan in 2024 ahead of the County Council elections.
18. The proposed extended timetable for preparing the MWLP would result in an amendment to the MWDS as follows:
- Issues and Options public consultation in October 2021.
  - Preferred Options (Draft Plan) public consultation in June 2023.
  - Pre-Submission Plan public consultation in early 2024.
  - Submission of Minerals and Waste Local Plan to Secretary of State in mid-2024.
  - Examination in Public of Minerals and Waste Local Plan in mid-to-late 2024.
  - Adoption of the Minerals and Waste Local Plan would take place at the end of 2024.

<b>Consultation:</b>
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19. Prior to commencement of the Issues and Options public consultation, in March 2021, officers updated the Communities, Environment and Highways Select Committee Sub-Group about the timetable for the preparation of the MWLP and preliminary work done in respect of the Issues and Options public consultation. At this time the member engagement strategy for the preparation of the MWLP was agreed.
20. In September 2021, officers provided separate briefings to members (at an all-member development seminar) and the Cabinet Member for Transport and Infrastructure about the purpose, scope, and range of the Issues and Options public consultation and answered any questions they had in this regard.
21. In October 2021 the Cabinet Member for Transport and Infrastructure, in consultation with the cabinet, authorised the launch of the Issues and Options public consultation.
22. Prior to the launch of the Preferred Options (Draft Plan) public consultation, officers will seek to engage meaningfully with Surrey's LPAs and elected members and other stakeholders (landowners, developers etc.) particularly in respect of any sites or areas of land proposed to be included or otherwise identified in the draft MWLP.
23. Moreover, as part of the Preferred Options (Draft Plan) public consultation and to accord with SCC's Statement of Community Involvement 2019, officers will also seek to engage directly with communities (residents, Parish Councils, resident associations etc.) and other stakeholders who may be affected by any sites or areas of land proposed to be included, safeguarded, or otherwise identified as part of the draft MWLP. This engagement work is likely to take the form of a series of advertised on-line and face-to-face meetings and organised community events. For

this reason, the Preferred Options (Draft Plan) public consultation will take place over several months.

24. On 14 June 2022 officers will submit a report to the Communities, Environment and Highways Select Committee to update members in detail about the Issues and Options public consultation and related progress in preparing the MWLP.

#### **Risk Management and Implications:**

25. It is important that SCC's development framework for minerals and waste management development remains up-to-date and compliant with legislation and Government planning policy and guidance. Failure to do so could lead to successful challenges to decisions on relevant planning applications and enforcement actions, whereby if they are overturned costs could potentially be awarded against SCC.
26. The CPA manages this risk by regularly reviewing the development framework relating to minerals and waste management development to ensure that local planning policy remains up-to-date and compliant with legislation, policy and guidance, and takes account of the most recent local context affecting mineral working and restoration, and sustainable waste management.

#### **Financial and Value for Money Implications:**

27. There are no costs associated with the amendment of the MWDS. The costs of preparing the MWLP will be met from the existing service budget. In the event of a legal challenge the need for external legal advice could lead to a financial pressure, which will need to be managed within the wider Environment, Transport and Infrastructure Directorate budget envelope.
28. Once complete, the adoption of the MWLP will provide a level of certainty to members, officers, developers and residents. As a result, an up-to-date plan will reduce the risks of appeals and legal challenges which can be costly for the SCC.

#### **Section 151 Officer Commentary:**

29. Although significant progress has been made to improve the Council's financial position, the medium term financial outlook beyond 2022/23 remains uncertain. With no clarity on central government funding in the medium term, our working assumption is that financial resources will continue to be constrained, as they have been for most of the past decade. This places an onus on the Council to continue to consider the issues of financial sustainability as a priority in order to ensure stable provision of services in the medium terms. The costs of the MWLP are expected to be met from existing approved budgets. Further, the Plan will reduce the likelihood of future challenges and appeals which would have financial implications for the Council. As such, the Section 141 Officer supports the recommendation.

#### **Legal Implications – Monitoring Officer:**

30. SCC is the CPA for Surrey. It is required by the Planning and Compulsory Purchase Act 2004 to prepare development plan documents and other documents that provide the framework for delivering minerals and waste management planning policy in Surrey.
31. The Act also requires every planning authority to prepare a development scheme which sets out the programme for the preparation of development plan documents

and a Statement of Community Involvement which sets out the communities which will be involved in the preparation of planning policy.

32. The revised MWDS is in accordance with the requirements of the Planning and Compulsory Purchase Act and will form the basis of the timetable to prepare the MWLP.

**Equalities and Diversity:**

33. Plan preparation involves several stages of public engagement and consultation, which provides the CPA with opportunities to seek the views of residents and other stakeholders on the matters that are to be addressed by the MWLP, and on detailed policies and sites that are to be allocated or otherwise identified for development.
34. An Equalities and Diversity Impact Assessment (EqIA) will be produced in accordance with the requirements of the Equalities Act 2010 as part of the MWLP preparation process.
35. The Statement of Community Involvement (SCI) that the CPA is required to prepare and on which it is required to consult as part of the plan preparation process will also help to ensure that the widest possible cross-section of Surrey residents can engage with and shape the plan-making process.

**Other Implications:**

36. The potential implications for the following council priorities and policy areas have been considered. Where the impact is potentially significant a summary of the issues is set out in detail below.

<b>Area assessed:</b>	<b>Direct Implications:</b>
Corporate Parenting/Looked After Children	No significant implications arising from the preparation and implementation of the MWLP.
Safeguarding responsibilities for vulnerable children and adults	No significant implications arising from the preparation and implementation of the MWLP.
Environmental sustainability	See section below.
Compliance against net-zero emissions target and future climate compatibility/resilience	There is no requirement to assess the carbon impact of the proposed amendment to the Minerals and Waste Development Scheme.
Public Health	The potential implications of minerals and waste development for the health and wellbeing of host communities will be assessed during the plan-making process. The need to safeguard host communities from potential health effects will be reflected in the priorities and policies of the plan.

## ENVIRONMENTAL SUSTAINABILITY IMPLICATIONS

37. Under the current plan-making process, the preparation of a new local plan is subject to several requirements for statutory or technical assessment as a matter of law or national policy. As a matter of domestic law, the development of a new plan must be informed by a Sustainability Appraisal (SA), which should seek to integrate the requirement for Strategic Environmental Assessment (SEA) set out in European law. The SA/SEA process enables those preparing the Plan to identify potentially significant impacts on the environment and wider sustainability issues, and to adjust the plan so that such impacts are avoided, mitigated or compensated for.
38. Where the proposed MWLP could give rise to likely significant effects on sites of European importance for nature conservation (i.e. Special Protection Areas or SPAs, or Special Areas of Conservation, or SACs) it will be subject to Habitat Regulations Assessment during its preparation. A local plan may only proceed to adoption where it can be concluded that its implementation would not give rise to significant impacts, alone or in-combination with other plans, programmes or projects, on the identified sites of European importance for nature conservation.
39. As a matter of national policy, all local plans must be subject to Strategic Flood Risk Assessment (SFRA) during their preparation, to ensure that the development proposed would not be at significant risk of flooding and would not result in flood risks changing significantly elsewhere in the affected area.
40. Mineral resources are finite and non-renewable, and their extraction will inevitably result in their consumption for the purposes of economic growth and development. The management of waste also has a clear impact on the environment. The development of a joint MWLP presents opportunities to improve the contribution that the recycling of construction, demolition and excavation wastes can make to reducing demand for primary aggregate resources.
41. Waste arising from the activities of communities and businesses located in Surrey require appropriate management, to reduce demand for primary natural resources through recycling, recovery and reuse, and to ensure that where disposal is unavoidable that it is done in a manner that minimises the potential for harmful impacts on the environment and communities.
42. The restoration of former mineral workings has scope to contribute to the goal of BNG, through the provision of new or enhanced areas of semi-natural habitat, potentially contributing to wider networks of green or blue infrastructure. The restoration of minerals sites also presents opportunities to integrate flood alleviation measures, to address the impacts of a changing climate, and for the planting of trees and other vegetation which can support climate change mitigation through carbon sequestration.

### What Happens Next:

43. A consultation summary report relating to the Issues and Options public consultation is to be published in June 2022 at which time officers will submit a report to the Communities, Environment and Highways Select Committee to update members in detail about the Issues and Options public consultation and related progress in preparing the MWLP.



44. The next formal stage of preparing the MWLP is the Preferred Options (Draft Plan) public consultation which is set to be undertaken in June 2023 in accordance with the proposed amended Minerals and Waste Development Scheme.

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**Annexes:**

Annex 1 - Amended Minerals and Waste Development Scheme - May 2022

**Sources/background papers:**

Surrey County Council Minerals and Waste Development Scheme - June 2021: [Minerals and Waste Development Scheme 2021 \(surreycc.gov.uk\)](https://www.surreycc.gov.uk/minerals-and-waste-development-scheme-2021)

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